

CHAPTER Liq 500 RULES RELATING TO PARTICULAR LICENSEES

Adopt Liq Parts 501, 502, 503, 505, and 506.01 through 506.05, previously effective 11/28/96 (doc#6391) and expired 11/28/2004, to read as follows:

PART Liq 501 CLUBS

Liq 501.01 Definitions. As used in this part, unless a different meaning is clearly intended from the context:

- (a) "Club member" means any person who has full privileges in the club, a vote in its affairs and the right to run for office.
- (b) "Auxiliary member" means an individual recognized and defined in the by-laws of a private club who has canteen and other club privileges, but who is not a full voting member of the club.
- (c) "Guest" means an adult person who is accompanied by a club member or auxiliary member and registered in the club guest book.

Liq 501.02 Roster of Members. Club licensees shall have a roster of their members and auxiliaries with their addresses for inspection by the commission or its investigators at any time that the club is open. The roster shall be kept on the licensed premises.

Liq 501.03 Sons of the American Legion, Veterans and Social Club Auxiliary Member Cocktail Lounge Privileges.

- (a) Clubs having auxiliaries associated with them may extend cocktail lounge privileges to the membership thereof.
- (b) American Legion clubs having Sons of the American Legion affiliates may also extend membership privileges to members thereof.
- (c) In no case shall any non-member have cocktail lounge privileges, except that members, a member of the Sons of the American Legion, and auxiliary members of a club licensed under RSA 178:2[0]2, V,(h) shall be entitled to cocktail lounge privileges at any other like national fraternal club in this state provided, that member, member of the Sons of the American Legion, or auxiliary member has on his person and displays on request a current membership card of that same national fraternal organization.
- (d) The by-laws of the private club which grant auxiliary membership status to a group of individuals shall be on file with the commission offices to provide for formal recognition of the club's auxiliary members by the commission.

Liq 501.04 People to Whom Liquor May be Served In Veterans and Social Clubs. No beverages or liquor shall be sold to the general public or to any other persons except members, guests, members of the Sons of the American Legion, or auxiliary members of a club in this state affiliated with the same national fraternal organization and licensed under 178:2[0]2 V,(h) provided that member, member of the Sons of the American

Legion, or auxiliary member has on his person, and displays on request, a current membership card of that same national fraternal organization.

Liq 501.05 Guests and the Guest Book Requirements For Veterans and Social Clubs.

- (a) The guest book shall contain the name and address of the guest together with the name of the accompanying member, member of the Sons of the American Legion, or auxiliary member and the date of attendance. For the purposes of this rule, "address" means the city or town and state.
- (b) Each member, member of the Sons of the American Legion, or auxiliary member may be accompanied by up to 4 guests at any one time.
- (c) Such guests may remain on the club premises in the company of such member, member of the Sons of the American Legion, or auxiliary member but only so long as such member, member of the Sons of the American Legion, or auxiliary member shall remain in the club.
- (d) The guest book shall be open for inspection by commission investigators at all times.
- (e) Guest books shall be written legibly and maintained on the premises for at least one year.

Liq 501.06 Access Restricted. The entrance to a private club shall be restricted by a bell or buzzer system in order to gain entrance to the club.

Liq 501.07 Records Available for Inspection. Club licensees shall have all their records available for inspection including financial records, and such records shall be kept in the English language.

Liq 501.08 Date for Submission of Report; Forms.

- (a) All club licensees shall make a sworn return to the commission once each month, showing the income from liquor sold and expenses chargeable to that part of the license as reported on form 233.
- (b) All such reports shall be forwarded to the commission prior to the 15th day of the following month.
- (c) Each club licensee filing pursuant to paragraphs (a) and (b) shall supply on form 233 the following:
 - (1) Name, address, number of members, license number and the month and year of the reporting period;
 - (2) A statement of profit and loss for the reporting period, including:
 - a. Income from sale of liquor and beverage;

b. Dues, miscellaneous income which includes all income from amusement machines, lottery sales, hall rental, and bingo games, and total income; and

c. A computation of the cost of goods sold including:

1. Beginning monthly inventory of liquor, beverage, bar supplies, miscellaneous and their total;
2. Monthly purchases of liquor, beverage, bar supplies, miscellaneous and their total;
3. Total monthly merchandise available; and
4. Total cost of ending monthly inventory of liquor, beverage, bar supplies, and miscellaneous.

(3) Operating expenses for the reporting period including:

- a. Rent, salaries, heat, lights, water and telephone;
- b. Insurance and interest, repairs and alterations;
- c. Janitorial services and supplies;
- d. Taxes, charitable donations, licenses, transportation, club socials and member benefits, entertainment, loss and waste; and
- e. Total expenses.

(4) Computation of profit and loss for the month including:

- a. Gross profit or loss; and
- b. Net profit or loss.

(5) Balance sheet for the reporting period including first of the month and last of the month figures for:

- a. Assets, including:
 1. Checking accounts;
 2. Savings account;
 3. Cash on hand;
 4. Petty cash or change fund;

5. Merchandise inventory;
 6. Bonds;
 7. Real estate; and
 8. Furniture and equipment;
- b. Total of the above assets;
 - c. Liabilities, including:
 1. Accounts payable;
 2. Notes payable;
 3. Mortgage payable;
 4. Taxes payable; and
 5. Surplus;
 - d. Total liabilities and surplus; and
- (6) The date, reporting officer's signature, title, and expiration date of office term.

Liq 501.09 Beano Games.

- (a) Club licensees shall forward written notification to the commission at least five days prior to holding beano games as defined by RSA 287-E.
- (b) No liquor or beverage shall be sold by any club licensee during and for 15 minutes following the close of beano games on each approved date when such affairs are open to the public.
- (c) Beano games conducted in approved rental halls may be conducted concurrently with the operation of the club canteen and shall be treated as rentals under the provisions of Liq 502.15.

Liq 501.10 Minutes of Meetings; Financial Statement Retained. Minutes of all club meetings and monthly financial statements of club operations covering a period of 3 years prior to the current date shall be retained on the club premises and made available to the commission, its examiners, or investigators at any time.

Liq 501.11 Application for Membership. Application for club membership shall be made in writing and such application shall include name, address, date of application and signature of applicant. Application cards shall be retained on the club premises and made available to the commission or its investigators at any time.

Liq 501.12 Beverages and Liquor Served.

All beverages and liquor consumed on the club premises shall be those which are sold or in the case of tastings under RSA 179:44 served by the club except private groups may bring in and serve, or, if a one day license holder, sell their own liquor and beverage in approved rental halls or rooms.

Liq 501.13 Rental of Club Rooms.

(a) Club licensees having halls or rooms on the premises available for rentals shall have such halls or rooms licensed by the commission, pursuant to RSA 178:22, V(h)(3), prior to any rental or any supplemental license being issued.

(b) These rooms or halls shall have separate:

(1) Toilet facilities; and

(2) Entrances and exits from the club proper.

(c) Club and rental areas must be completely separated during the period of rental.

(d) Club licensees shall notify the commission in writing at least five days before the date of any rental.

(e) This notification shall include:

(1) The name of the individual or organization desiring to rent the hall, and

(2) The date and time of the rental.

(f) Club licensees shall be responsible for the maintenance of order and compliance with state laws and town ordinances governing these assemblies.

Liq 501.14 Advertisements.

(a) Club licensee advertisements for club affairs to be held on their licensed premises shall contain the statement "FOR MEMBERS AND THEIR GUESTS ONLY". The lettering of such statement shall be at least as large as any other lettering in the advertisement.

(b) Attendance at such affairs shall be limited to members and guests only; and

(c) No advertising shall invite the general public and non-members to attend.

Liq 501.15 Transfers.

(a) All petitions, pursuant to RSA 178:25, for transfer of a club license shall be received in the commission's offices at least 5 days prior to the event.

(b) Transfers shall not exceed 3 consecutive days and 6 total days for any organization during their license year.

PART Liq 502 HOTELS

Liq 502.01 Service Bars. Hotel licensees may have auxiliary service bars in any hotel areas licensed for service and sale of alcoholic beverages.

Liq 502.02 Minimum Opening Requirement For Hotels.

(a) When open for business the holder of a hotel liquor license shall be open for business at least five days per week. The license shall not be operated when the hotel is not open for business and rooms are not available for rental to guests.

(b) Exceptions to this rule shall be granted for limited periods of time on specific written request to the commission.

(c) Written requests for an exception to Liq 502.02(a) shall include:

- (1) The name and address and license number of the business;
- (2) The proposed opening schedule; and
- (3) The signature of the owner or manager.

(d) Approval shall be granted for specific periods of time requested by the licensee, provided the requested hours do not conflict with any other statute or rule.

Liq 502.03 Service and Preparation of Food. The holder of a hotel full service restaurant license or his employees shall prepare, cook and serve the food for the restaurant. In no case shall the food concession be leased or rented out to any other person.

PART Liq 503 RESTAURANTS

Liq 503.01 Account of Business.

(a) The holder of a restaurant liquor license shall file and preserve his individual sales slips and maintain a complete and accurate account of business, separated in such manner that the commission upon audit may determine the total amount of sales of food as compared to the sales of beverage, liquor and incidentals.

(b) Such license holder shall maintain purchase orders, sales slips and register tapes.

(c) All sales shall be recorded on a cash register which separates sales of liquor and beverage from sales of food.

Liq 503.02 Certification Form.

(a) A certification of [e form covering] food, beverage and liquor sales made by the licensee during the previous license year shall be filed by each licensee licensed pursuant to RSA 178:21, II(a)(1) with the commission as part of their license renewal. All restaurant sales shall be noted on said license renewal form which will be furnished by the commission.

(b) The licensee shall supply on the license renewal application form the following:

- (1) Dates of the business period covered;
- (2) Restaurant and, if applicable, cocktail lounge sales of food;
- (3) Total sales of beverage and liquor in the restaurant and, if applicable, cocktail lounge;
- (4) Signature of the individual, all partners, members or designated manager of a limited liability company, or president or other designated officer of a corporation, as applicable;

Liq 503.03 Minimum Opening Requirement For Full Service Restaurants Licensed for Full Liquor Sales.

(a) The holder of a full service restaurant liquor license shall be open for business at least five days per week.

(b) Exceptions to this rule shall be granted for limited periods of time on a specific written request to the commission:

(c) Written requests for exceptions to Liq 503.03(a) shall include:

- (1) The name, address and license number of the of the business;
- (2) The proposed opening schedule; and
- (3) The signature of the owner or manager.

(d) Approval shall be granted for specific periods of time requested by the licensee provided the requested hours do not conflict with any other statute or rule.

Liq 503.04 Service and Preparation of Food.

(a) The holder of a restaurant license or his employees shall prepare, cook and serve the food for the restaurant.

(b) Preparation and cooking food shall consist of at least three of the following:

- (1) Assembling raw or cooked food items to make a dish, such as a sandwich or salad;
- (2) Cooking raw fresh or frozen ingredients to make a dish, such as grilling a steak;
- (3) Heating prepared foods for service; and
- (4) Arranging a selection of foods on a plate or dinnerware for service, so as to constitute a full meal.

(c) In no case shall the food concession be leased or rented out to any other person.

(d) Service of food in a full service restaurant licensed for liquor sales means:

(1) Taking a food order at the table; and

(2) Serving the food to the table on plates or appropriate dinnerware, accompanied by appropriate tableware and condiments.

(e) Service of prepackaged sandwiches, prepackaged individual service side dishes, or frozen individually packaged meals purchased ready to serve or heat and serve shall not constitute food service under this rule.

PART Liq 504 RESERVED

PART Liq 505 ONE DAY LICENSES ISSUED PURSUANT TO RSA 178:22, V(l).

Liq 505.01 Definitions. As used in this part, unless a different meaning is clearly intended from the text:

(a) "One day license holder" means a holder of a one day license for voluntary non-profit organizations.

Liq 505.02 Conflict of Rules. One day license holders shall comply with the provisions of a one day license rule when it conflicts with another rule.

Liq 505.03 Hours of Service. Hours of service shall be noted on the license and no beverage or liquor shall be sold or consumed except during those hours.

Liq 505.04 Records to be Maintained.

(a) One day license holders shall maintain records showing the amount of money derived from the sale of beverage or liquor or both, the expense incurred in making such sales and the distribution of profits realized from said sales.

(b) Said records shall be made available for audit on request by the commission, its examiners or investigators at any time subsequent to the issuance of a license.

Liq 505.05 Surrender of License.

(a) If the commission's investigator suspends the one day license for sales contrary to public safety, one day license holders shall:

(1) Surrender their license on demand to any investigator of the commission; and

(2) Shall immediately cease all sales of beverage and liquor.

(b) Sales contrary to public safety shall include multiple violations of RSA 179:5 and or violations of RSA 179:50 or 179:51

PART Liq 506 WHOLESALE DISTRIBUTORS, BEVERAGE MANUFACTURERS, BEVERAGE VENDORS, AND OTHER LICENSEES

Liq 506.01 Rebates and Discounts.

(a) No holder of a wholesale distributor's license shall give or grant any rebate or discount except such as are given or granted by them to all retail licensees for similar purchases, as reflected in prices and discount schedules posted with the commission.

(b) All rebates or discounts shall be shown on invoices, sales slips, delivery slips and office records.

(c) Discounts not posted with the commission and false credits for defective beverage shall be considered violations of this section.

Liq 506.02 Sale or Delivery in Less than Case Lots. Holders of wholesale distributor's licenses shall sell or deliver beverage in original or equivalent containers or cases as prepared for the market by the manufacturer.

Liq 506.03 Equipment, Furniture, Fixtures and Property.

(a) Holders of a beverage vendor's license, beverage manufacturer's or wholesale distributor's license may:

(1) Lend, install or service or cause to be installed or serviced, equipment commonly known as taps, rods, and hose connections from the barrel to the backtin, where the faucets and taps are mounted, or permanent dispensing system; and

(2) Lend or give such washers, clamps, bungs, or special equipment that are necessary to cause such tapping equipment to function properly and also furnish knobs designating brands of beer dispensed in outlets.

(b) In no case shall installations be made or services given to any other non-proprietary part of the dispensing system such as coils, faucets, compressors, gas, air gauges, cooling equipment or other parts of such equipment necessary for proper function of the complete dispensing system.

(c) Holders of off sale licenses may loan pumps and tapping equipment for use at picnics and outings for non licensees or one day license holders.

(d) No holder of an on-sale or off-sale license shall knowingly hire or employ as a contractor, any person who holds a license issued under RSA Title XIII, except as allowed by RSA 179:11, III.

(e) Nothing in this rule shall prohibit a holder of a beverage vendor [or beverage vendor importer], beverage manufacturer or wholesale distributor's license from instructing a licensee in the proper method of using or cleaning of equipment.

Liq 506.04 Sale on Credit. No wholesale distributor shall sell beverage on credit except to those persons holding NH retail or wholesaler licenses and then in accordance with RSA 179:13.

Liq 506.05 Deposits, Rebates.

(a) Any deposits on beverage containers, and conditions for redemption, shall be included on wholesale distributor's price postings for said beverages.

(b) Rebates for returned containers shall:

(1) Be clearly shown on invoices; and

(2) Not exceed the deposits charged for said containers.

Readopt with amendment Liq 506.06, effective 2/01/01 #7243 to read as follows:

Liq 506.06 Keg Registration.

(a) Any NH licensee selling draught beer kegs to the public shall affix a NHSLC keg registration form to each keg sold which contains:

(1) The trade name and license number of the seller;

(2) The name of the clerk making the sale;

(3) The name, address, and date of birth of the purchaser;

(4) The type of identification card used to verify the data required by (3) above;

and

(5) The i.d. number of the document;

(6) A statement of the purchaser's legal responsibilities; and

(7) The dated signature of the purchaser.

(b) Licensees shall not affix any keg registration form until it has been completely filled out.

(c) Licensees shall keep a copy of the keg registration form for at least one year from date of purchase.

(d) The NHSLC keg registration forms shall be available for inspection by commission investigators or examiners.

(e) Licensees shall obtain keg registration forms only from the New Hampshire liquor commission.

(f) Licensees shall either:

(1) Deliver the keg to the purchaser at the time the NHSLC keg registration form is signed and affixed to the keg; or

(2) Deliver the keg only to the person who signed the keg registration form; and

(3) Obtain a signed and dated delivery receipt which shall be retained with the licensee copy of the keg registration form.

(g) [After 31 March, 2001 a] A NH licensee accepting any return of a keg from the public which does not have a keg registration form affixed shall:

(1) Obtain the name, address, and date of birth of the person returning the keg;

(2) Note the type of identification card used to verify the data required by (1) above;

(3) Note the i.d. number of the document; and

(4) Report this information to the bureau of liquor enforcement within 5 business days.

(h) Licensees who violate the provisions of these rules shall be subject to the penalties provided under Liq 603.

Adopt Liq Parts 506.07 through 506.14 and Liq Part 507, previously effective 11/28/96 (doc#6391) and expired 11/28/2004, to read as follows:

Liq 506.07 Wholesale Distributor Transfer and Receipt From Other Than Beverage Vendor or Beverage Vendor Importer.

(a) Wholesale distributors shall not accept alcoholic beverage from an out of state entity other than a beverage vendor without an accompanying invoice from the concerned vendor detailing all particulars of the transaction, including the date of transfer, the shipping party, the quantity shipped, and the sender's invoice number and its date.

(b) Wholesale distributors shall not transfer alcoholic beverages to an out of state entity without an accompanying invoice from the concerned vendor detailing all particulars of the transaction, including the date of transfer, the quantity transferred, the party transferred to and the wholesale distributor's invoice number of the transfer.

Liq 506.08 Licensing. Each beverage vendor to be licensed in the State of New Hampshire shall be the manufacturer of the beverage to be sold within the state, except when a manufacturer designates another person to be exclusively licensed to vend their beverages within the state of New Hampshire.

Liq 506.09 Registration; Territories. Beverage vendors, brew pubs, and beverage manufacturers shall provide the commission with the following information to receive approval for the brand of beverage and package size prior to shipping into or selling any beverage within the state:

(a) A copy of the label;

- (b) A copy of the federal label approval, if required, to produce such label;
- (c) A certified alcoholic content analysis performed at 60 degrees Fahrenheit by volume;
- (d) Package size approval requests;
- (e) A copy of all territorial agreements between the vendor and the wholesale distributors; or[and]
- (f) A list of the towns in which the brew pub or beverage manufacturer will sell its own brands; and
- (g) Any other information which may be required by federal law, rule, or state statute.

Liq 506.10 Forms; Filing Deadlines.

(a) Beverage vendors, brew pubs and other licensed suppliers of beverage shall report to the commission all shipments of beverage sold to, transferred to, and returned for credit by each wholesale distributor within the state, by the 10th of the month covering sales for the preceding month.

(b) Each beverage vendor, brew pub or other licensed supplier of beverage shall supply on forms supplied by the commission the following:

- (1) The vendor's name, address, license number and reporting period dates;
- (2) The names, addresses, and of each wholesale distributor to whom alcoholic beverages were shipped;
- (3) The number of packages, quantity of each type of package and size of each type of package shipped to or returned for credit by each wholesale distributor licensed in this state; and
- (4) Signature of the person making and remitting the report.

(c) Wholesale distributors shall report to the commission all shipments of beverage sold or transferred at retail or wholesale or returned to beverage vendors or other suppliers, by the 10th of the month covering sales for the preceding month.

(d) Each wholesale distributor shall supply on form 246 and supported by forms 248 schedule A, 249 schedule B, 250 schedule C, 251 schedule D, 252 schedule E, 253 schedule F, 254 schedule G, and 255 schedule H supplied by the commission the following information:

- (1) Name, address, license number and reporting period of the licensee;
- (2) The number and sizes of barrels and cases or other packages:
 - a. On hand at the first of the month;

- b. Purchased or received during the month;
- c. Returned from the retailer;
- d. Computed as the total available during the month;
- e. On hand at the end of the month;
- f. Computed as the difference between total available and on hand at end of month; and
- g. Lost and/or wasted;

(3) Deductions on which additional fees as provided by RSA 178:26 are exempt, including:

- a. Returns from the retailer;
- b. Sales outside N.H.;
- c. Returns to beverage vendors, [beverage vendor importers,] manufacturers, brew pubs, or other licensed supplier; and
- d. Total of deductions on which additional fee pursuant to RSA 178:26 is exempt.

(4) Net quantity on which additional fees pursuant to RSA 178:26, I is to be paid, including:

- a. Total gallonage per package type; and
- b. Net gallonage on all package types.

(5) Total additional fee due;

(6) Total additional fee due plus adjustment vouchers;

(7) Balance due; and

(8) Signature and date.

(e) Beverage manufacturers within the state shall report to the commission all beverages sold or furnished, by the 10th of the month covering sales or other distribution for the preceding month pursuant to RSA 178:26.

(f) Each beverage manufacturer shall supply on a form supplied by the commission the following:

- (1) The manufacturer's name, address, license number and reporting period dates;

(2) The number of packages, quantity of each type of package and size of each type of package shipped to each retailer licensed in this state and sold at retail; and

(3) Signature of the person making and remitting the report.

Liq 506.11 Beverage Manufacturers Tax Reporting; Filing Deadlines:

(a) Each beverage manufacturer shall report to the commission all quantities of beverage sold directly to the public, consumed in an authorized hospitality room, distributed or sold to employees for their consumption, or transferred to the premise of any restaurant authorized under RSA 178:12, II and issued pursuant to RSA 178:20, II, RSA 178:21,II(a)(1), or RSA 178:22, V(q) by the 10th of the month covering sales or transfers for the preceding month.

(b) This report shall include the following:

(1) The beverage manufacturer's name, address, and license number;

(2) The month being reported;

(3) The dates of each transfer of beverage to the vessel or restaurant premise ; and

(4) For each transfer reported:

a. If transferred directly to the vessel or restaurant serving tanks:

1. The name of the brand transferred;
2. The total number of gallons;
3. The total loss and waste in gallons; and
4. The total number of gallons transferred or sold to the restaurant; and

b. If transferred in kegs or other approved packages:

1. The brands transferred;
2. The packages transferred, with quantity of each package; and
3. The total gallons transferred;

(5) The total sales to the public for off premise consumption, including for each brand sold:

a. The total of each package type sold; and

- b. The total gallons sold;
- (6) The total of sales or distributions to employees for consumption, which shall include for each brand:
 - a. The total of each package type; and
 - b. The total gallons;
- (7) The total additional fees required by RSA 178:26, I;
- (8) Signature of the owner, a partner, Limited Liability Company member or manager, or a corporate officer; and
- (9) An attached copy of the beverage manufacturer's monthly or quarterly BATF brewers report of operations covering the period of the report.

Liq 506.1[3]2 Bill and Hold Procedures.

(a) For the purposes of this rule "bill and hold" shall mean a contractual agreement between any retail licensee and a wholesale distributor for sale of beverage in more than one delivery based upon the current price on file with the commission, pursuant to RSA 179:33, IV at the time of initial delivery, and a certain minimum quantity of beverage ordered, paid for and completely delivered within 10 calendar days of the first delivery date.

(b) Pursuant to RSA 179:33, III all original bill and hold invoices shall:

- (1) Be dated with the date of first delivery of the product to the licensee;
- (2) Be noted with the phrase "delivery for bill and hold" and the invoice number;
- (3) State the terms of the bill and hold contract which shall at least include:
 - a. The bill and hold invoice number;
 - b. The last date of delivery allowed for the product to be received for a bill and hold order as defined by Liq 506.13(a);
 - c. The last date that payment shall be received at the wholesale distributor's place of business for a bill and hold order as defined by Liq 506.13(a); and
 - d. A statement that if the bill and hold provisions as defined by Liq 506.13(a) are not met exactly, that the bill and hold invoice shall be voided by the wholesale distributor and

replaced by separate invoices for each delivery of beverage, priced at the cost for that quantity of beverage, as filed with the commission pursuant to RSA 179:33, IV on that delivery date.

(4) Be legibly receipted with the amount of payment, the date of the payment and who received payment on behalf of the wholesale distributor.

(c) All bill and hold contracts shall be between the wholesale distributor and the retail licensee. Settlement of any dispute arising therefrom shall be the sole responsibility of the contracting parties.

(d) Any bill and hold merchandise not delivered on the initial delivery shall remain the property of the wholesale distributor and be stored on the licensed premises of the wholesale distributor.

(e) No pre-paid bill and hold orders for beverage shall be permitted. A retailer may place funds on account with a wholesale distributor, which may be applied to invoices once the beverage is delivered, but shall not be encumbered by undelivered orders.

(f) If a wholesale distributor fails to complete the terms of the bill and hold agreement they shall invoice the retailer for the amount of beverage actually received at the bill and hold price.

(g) If a retailer refuses to complete the terms of the bill and hold agreement the wholesale distributor shall invoice the retailer for the amount of beverage actually received at the standard or base price in effect and filed with the Commission pursuant to RSA 179:33, IV at the time of the original bill and hold order.

(h) Disputed bills, reported to the commission as delinquent pursuant to RSA 179:13, shall be handled as provided by RSA 179:13, III.

Liq 506.13 Ownership and Pricing of Beverage Product; Prepaid Orders.

(a) For the purposes of RSA Title XIII and commission administrative rules, ownership of beverage product shall transfer from:

(1) The wholesale distributor to the retail licensee upon delivery by the wholesale distributor and acceptance by the retailer, or upon pick up of beverage at the wholesale distributor's place of business by the retailer; and

(2) The beverage vendor or beverage vendor importer to the wholesale distributor on the date of delivery at the wholesale distributor's premises, or upon pick up of beverage at a beverage vendor's, beverage vendor importer's or wholesale distributor's place of business by the wholesale distributor.

(b) Pursuant to RSA 179:33, IV prices charged for beverage products shall be those posted with the commission effective the date of transfer of ownership of the beverage product, except for those invoices of beverage product issued pursuant to the provisions of Liq 506.14.

(c) All prices and terms, including bill and hold shall be:

- (1) Registered with the commission pursuant to RSA 179:41; and
- (2) Made available to all retailers on an equal basis.

(d) No other prices and terms shall be offered to retailers than those filed with the commission pursuant to RSA 179:41.

(e) No pre-paid orders for beverage shall be permitted. A retailer may place funds on account with a wholesale distributor, which may be applied to invoices once the beverage is delivered, but shall not be encumbered by undelivered orders.

Liq 506.14 Brew Pub Reporting Forms; Filing Deadlines.

(a) Each brew pub shall report to the commission all quantities of beverage produced, transferred to the bonded area, sold or transferred to any licensed wholesaler by the 10th of the month covering sales or transfers for the preceding month.

(b) Each brew pub shall supply on a form supplied by the commission or an approved equivalent document the following:

- (1) The brew pub's name, address, and license number;
- (2) The month being reported;
- (3) The dates of each batch of beverage brewed;
- (4) For each batch brewed:
 - a. The total number of barrels or gallons;
 - b. The total loss and waste in barrels or gallons; and
 - c. The total number of barrels or gallons transferred or sold to the bonded area;
- (5) The total, in gallons, of all beverages transferred to the bonded area for the tax month reported;
- (6) Quantities in gallons sold to wholesalers, which shall also be reported on forms 258 and 334 listed by invoice;
- (7) The total fees required by RSA 178:13 IV; and
- (8) Signature of the owner, a partner, or a corporate officer.

(c) A copy of the brewpub's monthly BATF brewer's report of operations for the period reported shall be attached;

(d) If the brewpub files quarterly BATF brewer's report of operations:

(1) Copies of the brewpub's biweekly BATF tax forms for the period shall be attached; and

(2) A copy of the quarterly BATF report shall be submitted to the commission when filed.

PART Liq 507 CATERER'S ON AND OFF SITE LICENSES

Liq 507.01 Definitions. For purposes of this part, the following terms shall be construed as set forth below:

(a) "Private group" means an assembly of persons gathered for a designated social or business occasion, present by reservation or invitation, and shall in no way be construed to mean the general public.

(b) "Public building" means any building, excluding all private residences, maintained and available for any person, group or organization, including:

(1) Retail business establishments when not open to the public;

(2) A licensed premise provided there is a physical barrier between the licensed business and the catered area; and

(3) Tents, gazebos, or other defined outdoor areas provided two separate toilet facilities are located within the immediate vicinity.

Liq 507.02 Notification.

(a) Caterers and off-site caterers shall notify the commission in writing at least 5 business days before the date of any scheduled event at which alcoholic beverages will be served on premises currently licensed for this purpose.

(b) The licensee shall supply the following:

(1) Name, address, liquor license number and phone number of the business:

(2) Name of the clients, dates, times, and locations in the case of an off-site caterer of the functions.

(3) Signature of the licensee or his manager.

Liq 507.03 Application For Additional Sites.

(a) At least 10 business days prior to a function off site caterers shall apply for approval of any permanent or temporary site not previously approved for the service of alcoholic beverages

(b) The licensee shall supply on a form provided by the commission the following information and documentation:

- (1) Name, address, liquor license number of the business.
- (2) Names of the client, type of event, address of the client.
- (3) Name of the building or site, address, owner of the site and his address.
- (4) Proof of authority to occupy the premises and the building capacity pursuant to Liq 702.03 (a)(1).
- (5) Proof of compliance with the fire codes pursuant to Liq 703.03 (a)(2).
- (6) Proof of compliance with health codes pursuant to Liq 703.03 (a)(5).
- (7) Proof of compliance with RSA 179:19, II & III with regard to entertainment.
- (8) Signature of the applicant under the penalties of RSA 641:3 .

Liq 507.04 Restrictions on Serving.

(a) Holders of a caterer's or off-site caterer's licenses shall serve alcoholic beverages only to private groups.

(b) Notwithstanding the provisions of paragraph (a), the holder of a caterer's supplemental license issued pursuant to RSA 178:22, V(e)(1)(B) may serve the public provided that:

- (1) They have petitioned the commission pursuant to Liq 206.10(a)(1) for permission to utilize a supplemental license date at least 5 days prior to the scheduled event giving the date, times of the event and nature of any entertainment to be conducted on the premises;
- (2) At such times as they are serving liquor or beverage to the public they shall serve food; and
- (3) They shall not simultaneously serve both the public and private groups unless they have separate toilet facilities, entrances, exits and a complete separation shall be effected between the public groups and the private group portion of the premise during the period of the supplemental license.

Liq 507.05 Certification Form.

(a) A caterer licensed pursuant to RSA 178:2[0]2 V(e)(1), shall file commission certification of caterer's sales certificate form covering food, beverage and liquor sales made by the licensee during the previous license year with the commission on the license renewal application.

(b) Pursuant to paragraph (a) the licensee shall supply the following:

- (1) Dates of the business period covered;
- (2) Total caterers sales of food and sundry items;
- (3) Total sales of beverage and liquor;
- (4) The signature of the individual, all partners, or president or secretary of a corporation.

Liq 507.06 Account of Business.

(a) The holder of an on-site caterer's license shall file and preserve his individual sales slips and maintain a complete and accurate account of business, separated in such manner that the commission upon audit can determine the total amount of sales of food as compared to the sales of beverage, liquor and incidentals.

(b) Such license holder shall maintain purchase orders, sales slips and register tapes. The cash register shall be of a type capable of registering sales of liquor and beverage separately from those of food.

Liq 507.07 Service and Preparation of Food. RESERVED

Readopt Part Liq 508, effective 1/1/98, #6666, to read as follows.

PART Liq 508 AGENCY STORES

Liq 508.01 Purpose. The purpose of these rules is to set forth the requirements for agency liquor stores as provided for in RSA 177:9 in towns where there is no state store and where the voters of the town have voted to allow the sale of liquor in state stores under RSA 175:7.

Liq 508.02 Definitions.

(a) "Agency store" means a liquor outlet not owned or operated by the N.H. state liquor commission but licensed by the commission for the purpose of selling packaged liquor to the general public for off-premise consumption and operated in conjunction with another business.

(b) "Agent" means the individual, partnership, association, corporation, or limited liability company licensed as an agency store.

(c) "Business plan of operations" means a full detailed plan for the operation of the agency store for the term of the license, including but not limited to the hours of operation, staffing, inventory, merchandise to be carried, markup and/or pricing policy, a plan of the liquor sales and display area, and advertising or merchandising plans.

(d) "Special seasonal agency store" means an agency store licensed for only 6 months meeting the requirements of Liq 508.02 (a).

Liq 508.03 General Conditions.

(a) The agent shall be responsible for:

- (1) Providing a building or sales space;
- (2) Paying all utilities and rent;
- (3) Supplying all fixtures;
- (4) Paying any and all expenses incidental to the operation of the agency store.

(b) The commission shall determine the towns in which agency stores may legally be established.

(c) The commission shall only establish agency stores:

- (1) In a municipality which has voted in favor of the operation of state liquor stores under RSA 175:7;
- (2) In towns with no state liquor store; and
- (3) When the proposed agency store is at least 5 road miles from a state liquor store or any existing agency store.

(d) The commission shall, at least annually, review the towns where agency stores may be established and determine whether establishment of agency stores in any of those towns is in the state's interest.

(e) There shall be no presumption that any agency store license will be renewed at its expiration. All renewals shall be solely at the commission's discretion.

(f) In the case of non-renewal of an agency store license, the commission shall have no obligation, financial or otherwise, to the agency store operator.

(g) In the case that the commission shall decide to not renew an agency store license, either to award said license to another agent or to discontinue agency operations in the town, the commission shall notify the agency store operator at least 30 days prior to his license expiration.

Liq 508.04 Special Seasonal Agency Stores.

- (a) The commission shall choose towns in which to issue 6-month special seasonal agency store license based on seasonal tourist population and the sales volume at existing state and agency liquor stores in the same areas.
- (b) The 5-road mile spacing requirement in Liq 508.03(c)(3) for location of agency liquor stores shall apply to seasonal agency stores.
- (c) The commission shall apply the same selection criteria and method of advertising for and selecting seasonal agency stores as for regular agency stores.
- (d) The commission shall not buy back any stock remaining at the end of the seasonal license period.
- (e) Seasonal license applicants shall include plans for off season storage of liquor in their proposed business plan of operations.

Liq 508.05 Agency Store Discounts/Compensation.

- (a) All agency stores shall receive a purchase discount allowance of 8% from commission retail prices.
- (b) No other compensation shall accrue.

Liq 508.06 Status of Agency Store Operator and Employees.

- (a) Agents and their employees shall not:
 - (1) Be considered commission employees; or
 - (2) Be entitled to any benefits of employment from the State of New Hampshire.
- (b) An agency store shall, upon entering an agency agreement with the state, agree to hold harmless and indemnify the State of New Hampshire for any actions brought against it as a result of negligent or intentional conduct of the agency store.
- (c) All agency store personnel shall meet the requirements of RSA 179:23.

Liq 508.07 Days and Hours of Operation.

- (a) Agency stores shall be considered off-sale licenses for the purposes of maximum operating hours.
- (b) Agency stores and seasonal agency stores shall be open to the public as specified in their business plan of operations, but not less than 40 hours per week.

Liq 508.08 Temporary Closures.

- (a) Any agency store that plans to be closed or not operate scheduled hours as called for in their accepted business plan of operations shall send written notice to the commission at least 7 days in advance of the closing or change in scheduled hours of operation.

(b) The notice shall state the reason for the closure or change of hours of the agency store, the date of closing or schedule change, and the date the of the intended reopening.

(c) In an emergency, written notice including a full explanation shall be filed as soon as possible.

(d) Failure to notify the commission shall result in administrative action by the commission whereby the commission shall consider suspension or revocation of the agency store operation.

Liq 508.09 Advertising and Promotion. Agency stores shall be subject to the same restrictions on advertising and promotion which apply to off-sale combination licenses and retail table wine licenses found in RSA 179.

Liq 508.10 Sales Restrictions. The retail off-sale provisions of RSA 179 shall apply to agency stores.

Liq 508.11 Prices.

(a) All agency stores shall submit a plan of operation to the commission, which shall include their proposed pricing policy, which shall be adhered to during the term of the license.

(b) This pricing policy may only be modified with the written permission of the commission.

(c) All spirits sold by the agency store shall be priced the same as or higher than as sold in state liquor stores.

(d) Agency operators may use a depletion or post-off price that is being offered at a state liquor store.

(e) There shall be no ceiling limitation as to pricing by the agency store.

(f) De-listed products may be discounted at the same level as in state liquor stores.

Liq 508.12 Inventory.

(a) The agency store may carry in its inventory any size and code which is listed in the general commission price list.

(b) Agency stores shall carry an inventory as detailed in the business plan of operations accepted by the commission.

Liq 508.13 Purchasing of Liquor.

(a) Merchandise shall be purchased directly from the commission in a manner agreed to prior to licensing.

(b) No returns other than wrong or defective merchandise shall be allowed.

Liq 508.14 Store Operations. The agent or his commission-approved manager shall manage and operate the store according to the terms of the business plan of operations accepted by the commission..

Liq 508.15 Storage Facilities; Premises. The agent shall, at the agent's expense, provide premises which contain sufficient selling area and protective storage space for the store operation as detailed in the agent's business plan of operations accepted by the commission.

Liq 508.16 Sales Agent Selection Procedure.

(a) When the commission shall determine a location meeting the requirements of RSA 177:11 and Liq 508.03 (c) in which it wishes to establish an agency store or seasonal agency store, it shall seek applications from the public in the following manner:

- (1) The commission shall advertise the location in a daily newspaper in the county where the agency store is to be located and in at least one daily newspaper circulated statewide.
- (2) The commission shall also notify the town clerk of the commission's intention; and
- (3) The commission shall request that notice be posted at the town hall or other appropriate locations.

(b) The advertisement and notice shall include:

- (1) General selection criteria and procedures for selection and appointing a retail sales agent as required by Liq 508.16(d) and (e) and Liq 508.17;
- (2) Deadline for receiving applications; and
- (3) How to obtain additional information.

(c) The commission shall evaluate all applications and select the applicant which, in its judgement shall:

- (1) Provide the greatest revenue to the state, and
- (2) Provide the best service to the public, considering the following factors:
 - a. Price;
 - b. Selection;
 - c. Hours of operation;
 - d. Location; and

e. Sales area and layout.

(d) The commission shall give finalists advance notice of the public meeting when the commissioners shall appoint an agent using the selection criteria required by RSA 177:11, IV found in Liq 508.16 and Liq 508.17.

(e) The appointment of the agent shall be based on the criteria established by RSA 177:11, IV, Liq 508.16, and Liq 508.17.

Liq 508.17 Agency Store Sales Agent Selection Criteria.

(a) A sales agent applicant shall:

- (1) Submit a business plan of operations detailing how the proposed agency store would operate during the term of the license;
- (2) Be a citizen;
- (3) Be at least 21 years of age;
- (4) Have had the experience of 3 years of owning and operating a business operation;
- (5) Be a resident of the State;

(b) The agency store shall be operated as an adjunct to an existing business.

(c) The priority of business type selection shall be:

- (1) First to retail grocery outlets with combination licenses;
- (2) Then to convenience stores having a combination license;
- (3) Then to pharmacies having a combination license; and
- (4) Then to other retail outlets as defined by RSA 175:1, LX.

(d) The existing adjunct business should have an operation realizing at least \$500,000 in gross sales annually.

(e) Other agency applicant selection criteria shall include:

- (1) Retail business experience at the current location;
- (2) Retail experience at other locations;
- (3) Whether the applicant, or his designated manager, has:
 - a. A record of felony conviction;
 - b. Conviction of crime relating to money management fraud;

- c. A history of conviction of crimes relating to the abuse of alcohol or controlled substances;
- d. A history of violations of the provisions of RSA179 at the proposed location or at other licensed locations;
- e. Proof that the applicant, if convicted of a felony, meets the requirements of RSA 178:[25]4 for exception.

(4) Financial ability to purchase or lease and equip the retail liquor store at a commission approved location; and

(5) Ability to provide the necessary funds to meet the operating expenses of the retail liquor store.

(f) All agency store applicants submitting an application for an agency store license shall fulfill all requirements for a licensee as required by Liq 700.

Liq 508.18 Annual Agency Store License Renewal Review.

(a) The commission shall not automatically renew agency store licenses .

(b) Agency store operators shall file with the commission revised business plans of operation 2 months prior to license expiration.

(c) Existing businesses meeting the requirements of Liq 508.17 in a town where an agency store is licensed may file a business plan of operations with the commission, with a request that the commission evaluate the plan before reissuing an agency store license.

(d) The commission shall evaluate all business plans of operation on file prior to renewing an agency store license, and award the license to the operator who appears to be of greatest benefit to the state pursuant to Liq 506.16(c).

(e) The commission shall not relicense agency store operations which do not adhere to their accepted business plan of operations and any commission approved changes to it.

Liq 508.19 Sales Agent Vacancy. The commission shall discontinue or seek sales agent applications for an agency store location that has a sales agent vacancy.

Liq 508.20 Prohibitions. No sales agent, partner of a sales agent or officer or director of a sales agent shall be employed by a business that is licensed as a vendor, manufacturer, broker, importer, warehouser, representative or distributor of liquor or beverages.

Adopt Liq Part 509, previously effective 11/28/96 (doc#6391) and expired 11/28/2004, to read as follows:

Liq PART 509 GOLF FACILITY

Liq 509.01 Beverage Sales From Mobile Service Bars on Golf Fairways.

(a) Golf facility licensees may apply to provide service of beverage to patrons on the fairways from mobile service bars provided a service plan as defined in Liq 404.05 (a)(2) has been submitted.

(b) A "mobile service bar" for the purposes of this rule shall mean any golf cart or other similar vehicle, which is staffed by a person meeting the requirements of RSA 179:23, IV & V and which has been outfitted for storage, cooling or refrigeration, sale and service of beverage in cans or bottles.

(c) No golf facility licensee shall sell or otherwise provide alcoholic beverage or liquor to patrons on any portion of the golf course without prior approval by the commission.

(d) Licensees holding a golf facility license may petition the commission, pursuant to Liq 206.10(a)(1)/Liq 406.06 to be approved for beverage sales and service from one or more mobile service bars on the golf course.

(e) The commission shall only grant permission to golf facility licensees for mobile service bars under the following conditions:

- (1) All individuals selling, serving or dispensing beverage from mobile service bars shall meet the requirements of RSA 179:23 IV or V.
- (2) All beverage and liquor possessed and consumed on the premises shall be that sold by the licensee;
- (3) A sufficient number of employees shall be deployed to adequately control and insure adherence to all statutes and rules for the serving, sale and consumption of beverage on the golf course;
- (4) No service or consumption of any alcoholic beverage shall be allowed in parking lots, except in areas approved for service of liquor and beverage pursuant to RSA 178:21 and Liq 404.06;
- (5) No licensee nor their employees shall allow patrons to leave the premise with liquor or beverage; and

(f) Licensees may have their mobile service bar privilege suspended or revoked in addition to any other administrative penalty imposed by the commission for a violation of statute or rule which stems from service or sale of beverage from mobile service bars on the fairways.